The Evolution of the Common School in (West) Virginia

By Roy C. Woods

Not too much is known of the educational operations of Old Virginia School Laws in the part now included in West Virginia; however, certain data are available and deserve some study. But frontier conditions and sparse settlements west of the mountains indicated that educational facilities were rare indeed.

The first school law that in any way affected West Virginia was that passed by the General Assembly of Virginia in 1796, known as the "Aldermanic Law."[1] This act provided that the people of each county should elect three Aldermen, who were to have charge of the schools. These men were to meet annually on the second Monday in May at their courthouse and divide the county into districts, each of which was to contain enough children to make up a school. Each district was to be given a name, and a list of these names was to be given to the clerk of the county court, who was required to make a record of the same in his office. This list was to be unchanged, unless an increase or decrease in the population made a change necessary. In such case, the change was to be made, at the direction of the county court, by the Aldermen in office at that time.

After the above had been done, the householders in each district were to meet on the first Monday of the following September, at a place designated by the Aldermen, and select a site for the location of a schoolhouse. The site having been selected, the Aldermen were to build a building and keep it in repair. A teacher was then selected by the Aldermen and was to teach reading, writing and common arithmetic. The children were to receive tuition free for three years, but could attend, at their own expense, as much longer as their parents or guardians thought proper. The expense of building the schoolhouse and paying the salary of the teacher were to be paid by the people

[1] "An Act to Establish Public Schools," School Act of the General Assembly of Virginia, 1796, Code 31st Year, Chapter CXCIX.

of each county in proportion to the amount of their public assessments and county levy. This money was to be collected by the sheriff, just as all other taxes were, and turned over to the Aldermen. This law incorporated many of Thomas Jefferson's ideas of establishing a system of free public education in Virginia.

The main body of the Aldermanic Law follows:[2]

> At that time, ten of the West Virginia counties were in existence, Hampshire, Berkeley, Monongalia, Ohio, Greenbrier, Harrison, Hardy, Randolph, Pendleton, and Kanawha, formed in the order named. This Act called the "Aldermanic School Law," contained a preamble in which it was said: "Whereas, it appeareth that the great advantage which civilized and polished nations appear to enjoy, beyond the savage and barbarous nations of the world are principally derived from the invention and use of letters, by means whereof the knowledge and experience of past days are recorded and transmitted, so that man, availing himself in succession of the accumulated wisdom and discoveries of his predecessors, is enabled more successfully to pursue and improve, not only those acts which contribute to his support, convenience, and ornament of life, but those also which tend to illumine and enable his understanding and his nature." Further, that, "if the minds of the citizens be not rendered liberal and humane, and be not fully impressed with the importance of those principles from which these blessings proceed, there can be no real stability and order, or lasting permanency of the liberty, justice, and order of a republican government."

The first real law on education having for its purpose the provision of a common free school education was passed by the General Assembly in 1809.[3] This provided for what was long known as the Literary Fund and was the earliest permanent school fund in the United States. This law provided that all escheats, forfeitures, and personal property accruing to the State should be set aside for the encouragement of learning. In 1810 it was further provided that the auditor of public accounts should open an account designated the Literary Fund, and that the Governor, the Lieutenant-Governor, Treasurer, Attorney-General, and the President of the Court of Appeals should constitute a body corporate, under the name "President

---

[2] Phil Conley, Editor, *The West Virginia Encyclopedia*, First Edition (Charleston: The West Virginia Publishing Company, 1929), p. 613.

[3] *Acts of the General Assembly of Virginia, 1809-10* (Richmond: Samuel Pleasants, Jr., Printer to the Commonwealth, 1811), p. 9.

and Directors of the Literary Fund," of which the Governor should be the presiding officer.[4] This group, or any three of them, was given the power to transact all business relating to the fund and was required to make a yearly report to the Assembly as to the state of the funds in their charge, and to make recommendations for their improvement and use.

Other monies were added to the Literary Fund by two acts passed in 1814 and 1816. In 1814 the title to all lands listed for sale for taxes, but unsold, was made to vest in the Literary Fund; and, if redeemed within a year, the tax, with 10 per cent interest, went into the Fund.[5] In 1812 the State lent to the United States a sum of money to be used to aid in the war with Great Britain, and in 1816 it was enacted that this money, when repaid, was to be placed to the credit of the Literary Fund.[6]

This income from the Literary Fund was to be appropriated to the sole benefit of a school, or schools, to be kept in each county, subject to such regulations as the General Assembly might provide. The primary object of the creation of the Literary Fund was the education of the poor. To carry out this object the Assembly, in 1817, directed the President and Directors of the Literary Fund to set aside $45,000 to be paid to the counties in such proportion as the free white population in each county bore to the total population of the state.[7] Each county was to appoint not less than five nor more than fifteen commissioners, to make up a Board of School Commissioners for the county. This Board was to determine the number of poor children in the county, the number of them it should educate, what sum it would pay for their education, and send them to school, after securing the consent of their parents, and furnish them with materials for writing and ciphering. An annual report was to be made to the Directors of the Literary Fund, showing the number of poor children in the county, the number of children being educated in these schools, and what further appropriations should be necessary to educate all indigent children.

---

[4] *Acts of the General Assembly of Virginia, 1810-11* (Richmond: Samuel Pleasants, Jr., Printer to the Commonwealth, 1811), p. 9.
[5] *Acts of the General Assembly of Virginia, 1813-14* (Richmond: Thomas Ritchie, Printer to the Commonwealth, 1814), p. 22.
[6] *Acts of the General Assembly of Virginia, 1815-16* (Richmond: Thomas Ritchie, Printer to the Commonwealth, 1816), p. 6.
[7] *Acts of the General Assembly of Virginia, 1817-18* (Richmond: Thomas Ritchie, Printer to the Commonwealth, 1818), pp. 11-15.

Governor James Barbour, of Virginia, ex-officio president of the Literary Fund, looked forward with enthusiasm to the time when the General Assembly would be able to establish a school or schools for the education of poor children in every county of the Commonwealth.[6]

There is no further record of any school legislation in Virginia until 1829. In that year the Assembly set up a primary school system to be effective in any county in which the inhabitants voted to establish it.[7] The commissioners were empowered to lay off their county into districts of not more than seven or less than three square miles. When the people of the district raised by voluntary contributions three-fifths of the amount necessary to build a good house of wood, stone, or brick the commissioners would appropriate the other two-fifths out of the county quota from the Literary Fund for that year. The building must be located in the center of the district, or in another part of the district if agreed upon by the commissioners. The commissioners might appropriate not more than $100 for the employment of a good teacher for any schoolhouse so erected, provided the inhabitants raised by voluntary contributions an equal or greater sum for the same purpose, and provided that they selected no teacher who should not have been examined by the person appointed by the commissioners for that purpose. The school so set up was to be for free instruction of every white child of the district.

Although these were steps in the right direction, the people of the western part of the state were dissatisfied, and felt that they did not have an equal opportunity for education with those in the eastern part. In eastern Virginia the well-to-do could send their children to private schools or to a college close at hand. Thus western Virginia felt the need for public education and there was a growing sentiment for some provision to meet this need. Accordingly, there was held in Clarksburg, in September, 1841, a three-day convention, at which papers were read, addresses made, and plans submitted and the proceedings published in pamphlet form, under the title *A Memorial to the General Assembly of the State, Requesting that Body to Establish a More Liberal and Efficient Primary or Common School*

[6] Thomas Ritchie, *Journal of the House of Delegates* (Richmond, Virginia: 1815), p. 180.

[7] *Acts of the General Assembly of Virginia, 1829* (Richmond: Thomas Ritchie, Printer to the Commonwealth, 1829).

System.[10] Probably as a result of this meeting, the Virginia Assembly, in 1841, passed an act instructing the President and Directors of the Literary Fund to report to the next General Assembly a school system which they considered best adapted to the needs of the people of Virginia.

Lewis felt that this system

> . . . produced much of the illiteracy of the Commonwealth. But a large part of the people patronized these schools and when the three years' **tuition gratis** were passed, paid tuition and kept their children in school. Very many . . . were unable to do this . . . and the three years of free school afforded, gave but scant opportunity for the education of their children who thus grew up in ignorance if not illiteracy. It was to meet these conditions that the Literary Fund was created, and it became a mighty educational factor despite the refusal to accept its opportunities by so many of those for whom it was intended.[11]

By 1833 there were twenty-four (West) Virginia counties formed and many of these counties' schools had operated under the Aldermanic School Law. The three-years free tuition continued to be maintained under the system, and although the free provisions applied only to the poor, thousands of others received education at their own expense.[12]

The problem of illiteracy received much attention through a series of conventions held between 1841 and 1845, culminating in an act passed by the Virginia Assembly in 1846 giving school commissioners, holding office under the Act of 1817, authority to supplement the state aid for the poor by local taxes. Callahan[13] listed the main provisions of this law as follows:

> . . . the school commissioners then in office should divide the county into precincts, each containing as many districts as was thought desirable, each district, however, containing a sufficient number of people to make up a school. Annually, each precinct was to elect a commissioner, who met with the other commissioners to form a county board of school commissioners. In each district three trustees were to be appointed, who were to be responsible for choosing the sites of the school buildings, seeing to the upkeep of the buildings, ground, school apparatus, etc. Teachers were to be approved and hired by the board. The schools were to be visited regularly by the board and trustees.

---

[10] Thomas Condit Miller and Hu Maxwell, *History of West Virginia and Its People* (New York: Lewis Historical Publishing Company, 1910), pp. 359-60.

[11] Virgil A. Lewis, *History of West Virginia* (Philadelphia: Hubbard Brothers, 1889).

[12] Thomas C. Miller, *A History of Education in West Virginia* (Charleston 1907), p. 31.

[13] James Morton Callahan, *History of West Virginia*, Vol. 1 (Chicago: The American Historical Society, Inc., 1923), p. 382.

> The latter were to make reports of the condition of their schools annually, to the Board of Commissioners . . .
>
> Funds for the maintenance of these schools were supplied from the Literary Fund, and also by the inhabitants of each county by a uniform rate of taxation collected as were other taxes . . . .

Free public schools were established under the Act of 1846 in four counties, e.g. Cabell, Wayne, Jefferson, and Kanawha. The main features of the "old system" were maintained in the other counties. Funds continued to be administered as doles to the poor, and "old fields" continued to be good enough sites for school buildings, but this was a step forward in establishing the idea of a free public school system as a part of the state's obligations to the people.

There is some evidence that these private schools participated in the distribution of the Literary Fund in West Virginia. F. B. Lambert, former superintendent of schools of Barboursville, West Virginia, has in his possession the original records of the school commissioners serving in the area of Cabell County. The book cover gave 1819 as the date of its beginning. Under the date of June 1838 may be found this entry:[14]

> At a special meeting of the school comrs. of Cabell County held at the county courthouse of Cabell County on the 25th day of June 1838 . . . ordered that the surplus revenues of the literary fund for the county of Cabell for the year 1838 and each year thereafter which by the act passed March 22d, 1836, was added to the fund granted to the primary schools be applied to Marshall academy in said county of Cabell and that the auditor of the literary fund pay the same over to the order of the treasurer of Marshall academy in said county.
>
> (Signed by) William Buffington, Trust.

There seemed some question of the propriety of such a grant and a few years later we find the entry which might indicate the funds were granted for only a short time. In the above mentioned book the following entry can be found:

> At a board of School Commissioners held at the courthouse of Cabell County on the 25th day of October 1841, being court day for said county . . . ordered that the school commissioners of Cabell County be notified to meet at the courthouse on the first day of the November Court next to take into consideration the propriety of withdrawing the surplus revenue from the Marshall Academy . . . . .
>
> (Signed by) William Love, President
>
> John Samuels, Clerk

[14] A photograph copy of these minutes may be found at Marshall College.

The last minutes found concerning this transaction read as follows:

> At a meeting of the School Commissioners of Cabell County on Monday the 22d of Nov. 1841 . . . It was ordered by the board that the sum of sixty-seven dollars and twenty-seven cents be hereafter withdrawn from the amount of the surplus portion of the literary fund now appropriated to the Marshall academy and that the clerk of this board transmit a certified copy of this order to the superintendent of the literary fund. . . .
> (Signed by) William Buffington, President

A marginal note stated it had been "copied and sent to Marshall Academy."

The chief defect of this district free school system was that it required a petition signed by one-third of the voters before the question of its adoption could be submitted to the voters, and a two-thirds vote to adopt it. Free school men in the legislature foresaw this and, previous to its passage, secured the passage of a special act by which the system was to be optional for sixteen counties of the State, among them being the West Virginia Counties of Brooke, Jefferson, and Kanawha.[15] Elections were to be held on April 23, 1846, and the question, "Do You Vote for the Free School or Against it?" asked the voter. It was adopted by both Jefferson and Kanawha Counties, but Brooke rejected it. Within the next few years the other counties of West Virginia voted upon the issue and of the fifty counties then in West Virginia, by 1860 only three had adopted the free school system. The others continued the old system and the "Old Field" schoolhouse, built of logs, was present in nearly every neighborhood. It was only with the rise of the new state that a free school system came into existence in West Virginia.

Several reasons have been assigned for the failure of the Literary Fund, not least of them being that people were too proud to accept the bounty of the state. The facts seemed to be that the failure was due as much to lack of interest and incompetence as to the deficiencies of the act itself. Even where an honest effort was made to put the legislation into effect, it was generally agreed that the funds were inadequate.

[15] Virgil A. Lewis, Handbook of West Virginia (Charleston, West Virginia: The Tribune Printing Company, 1903), pp. 90-91.